

Notice of Allowability

Application No.

09/424,519

Examiner

Brian S. Kwon

Applicant(s)

MITCHELL ET AL.

Art Unit

1614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6/8/06.
2. ☒ The allowed claim(s) is/are 53-56.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).


* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 11/23/99
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 20060608
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☒ Other See Continuation Sheet


Brian Kwon
Patent Examiner
AU 1614

Continuation of Attachment(s) 9. Other: Drawings filed 11/23/99 are acceptable.

DETAILED ACTION

Drawings

1. Drawings filed 11/23/1999 are acceptable.

Examiners Amendment

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Xavier Pillai on June 8, 2006.

The application has been amended as follows:

Amendment to the specification:

The title of the invention, "The use of a nitroxide or a prodrug thereof in the prophylactic and therapeutic treatment of cancer", is replaced with "Use of tempol for the treatment of Li-Fraumeni syndrome and ataxia telangiectasia".

In the Specification, the first paragraph after the title of the invention, add—This application is a 371 of PCT/US98/10685, filed on May 27 1998, which claims benefit of 60/047,724, filed May 27, 1997--.

Amendment to the claims:

The listing of claims replaces all prior versions, and listings, of claims in the application.

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- Claim 53. (New) A method of treating Li-Fraumeni syndrome in an animal comprising administering to the animal in need thereof an effective amount of 4-hydroxy-2,2,6,6-tetramethylpiperidine-1-oxyl (tempol) to treat said Li-Fraumeni syndrome
- Claim 54. (New) The method of claim 53, wherein said 4-hydroxy-2,2,6,6-tetramethylpiperidine-1-oxyl is administered in an amount of about 0.1 to about 100mg/kg of body weight of the animal.
- Claim 55. (New) A method of treating ataxia telangiectasia in an animal comprising administering to the animal in need thereof an effective amount of 4-hydroxy-2,2,6,6-tetramethylpiperidine-1-oxyl (tempol) to treat said ataxia telangiectasia.
- Claims 56 (New) The method of claim 55, wherein said 4-hydroxy-2,2,6,6-tetramethylpiperidine-1-oxyl is administered in an amount of about 0.1 to about 100mg/kg of body weight of the animal.

Claims 1, 4-7, 9-20, 28, 30-34, 36-47 and 49-52 are cancelled.

Conclusion

3. Claims 53-56 are allowed.
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Kwon whose telephone number is (571) 272-0581. The examiner can normally be reached Tuesday through Friday from 9:00 am to 7:00pm.

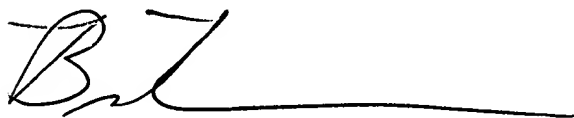
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin Marschel, can be reached on (571) 272-0718. The fax number for this Group is (571) 273-8300.

Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications may be obtained from Private PAIR only. For more information about PAIR system, see <http://pair-direct.uspto.gov> Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Brian Kwon
Patent Examiner
AU 1614

A handwritten signature in black ink, appearing to be 'BK' followed by a long horizontal line.